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SUMMARY RECORD OF THE 54th MEETING

Chairman: Mr. BARIMANI (Islamic Republic of Iran)
(Vice-Chairman)

Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. MSELLE

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In the absence of Mr. Teirlinck (Belgium), Mr. Barimani (Islamic Republic of Iran), Vice-Chairman, took the Chair.

The meeting was called to order at 3.35 p.m.

AGENDA ITEM 146: FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991 (continued) (A/C.5/49/L.44 and A/C.5/49/L.50)

Draft resolution A/C.5/49/L.50

1. Ms. ROTHEISER (Austria), introducing draft resolution A/C.5/49/L.50, which had been submitted by the Chairman following informal consultations, said that it would authorize the Secretary-General to enter into commitments in the additional amount of approximately US$ 7 million net for the period from 15 April to 14 July 1995 (para. 2). The General Assembly would resume its consideration of the question when it met again in June 1995, in order to decide no later than 14 July 1995 on all outstanding questions, in particular the mode of financing.

2. It was indeed regrettable that it was not possible for the General Assembly to take a decision at the present time on the substance of the proposals put forward by the Secretary-General. A final decision, including a decision on the mode of financing, had been deferred at the request of a few delegations which had felt that more time was needed to work out an acceptable compromise. That request had been agreed to with great reluctance in order to preserve consensus in the Fifth Committee, since it was felt that a consensus solution would ensure more stable financing in the long term.

3. Noting that a spirit of compromise had prevailed during the informal consultations and that bilateral contacts would be taking place before the Committee resumed its meetings, she expressed the hope that all outstanding questions concerning the financing of the tribunal could be resolved by mid-July. She recommended the draft resolution for adoption without a vote.

4. Mr. SCHAPER (Netherlands) said that, while his delegation would join the consensus on the draft resolution, it was disappointed that, once again, agreement had not been reached on a mode of financing for the Tribunal for reasons that had nothing to do with the proposed budget. The credibility of United Nations efforts in connection with both the maintenance of international humanitarian law and the situation in the former Yugoslavia was being undermined by the repeated inability of Member States to agree on a mode of financing for the Tribunal.

5. His delegation welcomed the inclusion of a deadline in the draft resolution and appealed to those countries which were most involved in the debate to make it their first priority to establish secure and stable financing for the Tribunal. Noting that during the informal consultations, it had been suggested

that new ways might be explored to resolve the problem, he expressed the hope that a decision would be taken when the committee resumed its meetings.

6. Draft resolution A/C.5/49/L.50 was adopted.

7. Mr. TAKASU (Controller) echoed the disappointment expressed by a number of members of the Committee that no agreement had been reached on the financing of the Tribunal. When the Tribunal had been established by the Security Council in May 1993, the Secretary-General had been authorized by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to enter into commitments of up to $500,000 for the balance of 1993. The General Assembly had now authorized the Secretary-General to enter into commitments totalling $26,175,000 for the period from 1 January 1994 to 14 July 1995 but without corresponding assessments. Those commitments had been authorized in five instalments, for periods ranging from two weeks to six months. Clearly, that did not represent the "secure and stable financing" called for in General Assembly resolution 48/251.

8. The Tribunal had been operating for nearly two years without appropriations or an authorized staffing table. It had now entered a critical stage of operation which would be hampered by such a precarious financial base and by the lack of a secure basis for employing current and future staff.

9. He felt constrained to point out the undesirable consequence of the growing practice of authorizing expenditures without providing the corresponding resources through assessments. That had placed an extraordinary burden on the Secretariat and had made prudent financial management difficult. At present, the Secretary-General was operating without appropriations in the International Civilian Mission to Haiti, the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala, the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the territory of Rwanda, and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. He had been obliged to borrow funds for those activities from other counts without any assurance that the necessary funds to replenish those accounts would be available to finance activities mandated by Member States. In any circumstances, that would constitute imprudent financial management; the perils involved were magnified by the cash position of the Secretariat. The Secretary-General would endeavour to carry out all mandated activities; however, should it prove impossible for him to do so, he could not be held responsible. He urged Member States to consider carefully the consequences of the decisions they took.

10. Mr. KEATING (New Zealand) said he shared the disappointment which had been expressed by the representative of the Netherlands prior to the adoption of the draft resolution and agreed with the Controller that the current mode of financing of the Tribunal did not constitute prudent financial management. In introducing draft resolution A/C.5/49/L.44, his delegation had expressed the view that it was irresponsible on the part of the General Assembly to continue to authorize commitment authority without corresponding appropriations. His

delegation had joined in the consensus in draft resolution A/C.5/49/L.50 because the Committee accorded high priority to taking action by consensus. That priority must not, however, be absolute; accordingly, his delegation would not withdraw draft resolution A/C.5/49/L.44. It welcomed the inclusion of a deadline for the adoption of a final decision in draft resolution A/C.5/49/L.50 and hoped that progress would be achieved in resolving the question of financing for the Tribunal before the Committee reconvened in June. Clearly, further compromise was necessary on all sides.

11. In conclusion, he said it was disappointing that, in the draft programme of work of the Committee for the period from 12 June to 14 July, consideration of agenda items 146 and 163 was scheduled towards the end of the series of meetings. If those items were not taken up earlier, the Committee would find itself in exactly the same impasse on 14 July as it was now.

12. Mr. HANSON (Canada) said that it did not speak well for the Committee that, after two years, it had been unable to achieve a consensus on the question of financing for the Tribunal. He recalled his earlier statement, delivered on behalf also of Australia and New Zealand, in which he had emphasized the need to take a final decision during the current series of meetings. His delegation had joined the consensus on draft resolution A/C.5/49/L.50 only with the greatest reluctance and disappointment and on the understanding that new proposals were being developed. It would participate in consultations on any such proposals, which it hoped would prove acceptable. It would have preferred to see funding provided under the regular budget; however, in a spirit of flexibility, it would consider other options.

13. Canada, which was a sponsor of draft resolution A/C.5/49/L.44, submitted by New Zealand, had joined the consensus on draft resolution A/C.5/49/L.50 on the understanding that draft resolution A/C.5/49/L.44 would be considered and voted on, if necessary, when the Committee resumed its meetings.

14. Continued recourse to unfunded commitment authority was a matter of great concern. His delegation had been all the more reluctant to join the consensus on draft resolution A/C.5/59/L.50 because, under the Canadian Financial Administration Act, which governed the management of public funds, Canadian public funds could not be committed unless there was an appropriation with sufficient unencumbered balance to cover the expenditure. Developments over the past two weeks had prompted much consideration by some delegations, including his own, about the principle of consensus and much discussion of possible alternatives. His delegation hoped that a final decision would be reached by consensus. It remained committed to the principle of consensus and to the establishment of the broadest possible agreement in the Committee regarding recommendations on the outline of the programme budget in accordance with General Assembly resolution 41/213 II, paragraph 7.

15. Mrs. ARAGON (Philippines), speaking on behalf of the Group of 77 and China, said that those countries attached great importance to ensuring a secure financial base for the Tribunal and had joined in the consensus on draft resolution A/C.5/49/L.50 only with some misgivings. Earlier, the Group of 77 and China had agreed to continue consideration of the item until the end of the week in the hope that consensus would be achieved on all outstanding questions,

in particular the mode of financing for the Tribunal. They now hoped that genuine political will would prevail when the Committee resumed its meetings in June and that the deadline of 14 July 1995 would be met.

16. Mr. MADDENS (Belgium) recognized that the adoption of draft resolution A/C.5/49/L.50 had been perhaps the only possible course of action in the current circumstances. However, the fact remained that, since its establishment by the Security Council two years earlier, the Tribunal had lacked a sound financial base. He recalled that, several weeks earlier, the French delegation, speaking on behalf of the European Union, had urged Member States to take a final decision on financing for the Tribunal. The practice of granting commitment authority to the General Assembly, particularly in the light of the Organization's current financial situation, must not continue. In that context, his delegation fully understood the concerns expressed by the Controller. It hoped that a final decision would be taken at the earliest possible date on the basis of the most recent proposals put forward. Like the Canadian delegation, his delegation hoped to participate in consultations on those proposals.

17. Mr. SHARP (Australia) expressed his delegation's disappointment that no final decision had been reached on the financing of the Tribunal and referred to an earlier statement made by the Canadian delegation on behalf of Australia emphasizing the urgent need to arrange for funding. The fact that the Secretariat had to rely on commitment authority and internal borrowing for the functioning of the Tribunal was alarming. In that connection, his delegation supported the Canadian representative's remarks concerning the practice of granting commitment authority without assessments. His delegation would continue to participate actively in efforts to reach a decision at the earliest possible date with a view to ensuring full appropriation and assessment in order to enable the Tribunal to continue its work.

18. Mr. AHMED (Pakistan) said that his delegation shared the deep concern expressed by other members of the Committee over the failure to reach a final decision. He stressed the importance of taking action by consensus and urged member States to accord the highest priority to the question of financing for the Tribunal when the Committee reconvened in June.

19. Mr. ABOLHASSANI SHAHREZA (Islamic Republic of Iran) expressed regret that, in the two years since its establishment, the Tribunal had been forced to function on commitment authority. Every effort must be made to ensure that such provisional financing did not hamper its work. His delegation had reluctantly joined in the consensus on draft resolution A/C.5/49/L.50 on the understanding that a final decision would be taken when the Committee reconvened in June.

20. Mr. TARZI (Saudi Arabia) said that his delegation, too, deeply regretted the Committee's inability to reach a decision after two years. Although it had advocated financing from the regular budget, it was open to other proposals to ensure that the Tribunal was fully and securely financed. The July 14 deadline should be the final deadline. The work of the Tribunal must not continue to be impeded by internal disagreements within the Organization. In conclusion, he supported the proposal made by the representative of New Zealand concerning early consideration of agenda items 146 and 163 when the Committee reconvened in June.

21. Mr. KELLY (Ireland) echoed the disappointment expressed by other delegations. The Tribunal would now be forced to continue to operate on commitment authority for an additional three-month period. He hoped that the long-overdue decision on a secure and stable mode of financing would be taken when the Committee reconvened in June.

22. Ms. PEÑA (Mexico) said that her delegation also regretted the Committee's inability to take a decision and would be willing to participate in all efforts to resolve outstanding questions without resorting to a vote. Any solution adopted should provide for the establishment of a special account for the Tribunal outside the regular budget, and for the apportionment of expenses according to the scale used to finance activities under Chapter VII of the Charter of the United Nations, the framework under which the Tribunal had been established.

23. The compromise solution proposed during informal consultations - whereby 50 per cent of the cost would be apportioned under the regular scale of assessments and 50 per cent under a special scale - seemed promising. New proposals for reaching a final decision would, of course, be successful only if they met the concerns of all Member States. Her delegation hoped that the Committee would take a final decision on the matter no later than 14 July 1995

The meeting rose at 4.10 p.m.